

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

<p>Sergio Castro,</p> <p style="text-align: right;">Plaintiff,</p> <p style="text-align: center;">-v-</p> <p>Arbeni Management Company Inc.,</p> <p style="text-align: right;">Defendant.</p>	<p><b>Civ. Action #:</b></p> <p><b><u>Complaint</u></b></p> <p><b>Date Filed:</b></p> <p><b>Jury Trial Demanded</b></p>
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Plaintiff Sergio Castro (“Plaintiff” or “Castro”), by Abdul Hassan Law Group, PLLC, his attorneys, complaining of the Defendant Arbeni Management Company Inc. (“Defendant” or “AMC”), respectfully alleges as follows:

**NATURE OF THE ACTION**

1. Plaintiff alleges, that he was employed by Defendant and pursuant to the Fair Labor Standards Act ("FLSA"), 29 U.S.C. §§ 216 (b), that he is: (i) entitled to unpaid overtime wages from Defendant for working more than forty hours in a week and not being paid an overtime rate of at least 1.5 times his regular rate for each and all such hours over forty in a week; (ii) entitled to maximum liquidated damages and attorneys’ fees pursuant to the Fair Labor Standards Act, 29 U.S.C. § 201 et seq. including 29 U.S.C. § 216(b).
2. Plaintiff further complains pursuant to New York Labor Law, that he is: (i) entitled to unpaid overtime wages from Defendant for working more than forty hours in a week and not being paid an overtime rate of at least 1.5 times his regular rate for such hours over forty in a week, (ii) is entitled to maximum liquidated damages and attorneys’ fees, pursuant to the New York Minimum Wage Act ("NYMWA"), N.Y. Lab. Law §§ 650 et seq., including NYLL § 663, and the regulations thereunder.
3. Plaintiff is also entitled to recover his unpaid wages, and wage deductions, under Article 6 of the New York Labor Law including Section 191, 193, and maximum compensation for not receiving notices and statements required by NYLL 195, under Article 6 of the New York Labor Law and is also entitled to maximum liquidated damages, including maximum

liquidated damages on all wages paid later than weekly, interest, and attorneys' fees pursuant to Section 198 of the New York Labor Law.

### **JURISDICTION AND VENUE**

4. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1337 and supplemental jurisdiction over Plaintiff's state law claim pursuant to 28 U.S.C. § 1367. In addition, the Court has jurisdiction over Plaintiff's claim under the Fair Labor Standards Act pursuant to 29 U.S.C. § 216 (b).
5. Venue is proper in the Southern District of New York pursuant to 28 U.S.C. § 1391(b) and/or 29 U.S.C. § 216 (b).
6. This Court is empowered to issue a declaratory judgment pursuant to 28 U.S.C. §§ 2201 2202.

### **THE PARTIES**

7. Plaintiff Sergio Castro ("Plaintiff" or "Castro") is an adult, over eighteen years old, who currently resides in Bronx County in the State of New York.
8. Upon information and belief and at all times relevant herein, Arbeni Management Company Inc. ("Defendant" or "AMC"), was a New York for-profit corporation.

### **STATEMENT OF FACTS**

9. Upon information and belief, and at all relevant times herein, Defendant was engaged in the in the business of real estate and building management and ownership in the New York tri-state area.
10. At all times relevant herein, Defendant owned and operated approximately more than 25 apartment/rental buildings and employed about 40 or more employees.
11. Upon information and belief, and at all times relevant herein, Plaintiff was employed by Defendant from on or about January 21, 2014 to on or about May 31, 2017.

12. At all times relevant herein, Plaintiff was employed by Defendant as a manual worker and Plaintiff performed maintenance and repairs in Defendant's building located at 710 Gerard Avenue, Bronx, NY 10451 – approximately six stories and 39 rental units.
13. At all times relevant herein, Plaintiff was paid at a regular rate of about \$16.47 - \$19.97 an hour and Plaintiff was not paid any wages for his overtime hours worked (hours over 40 in a week) in each week during his employment with Defendant.
14. At all times relevant herein, Plaintiff was entitled to an hour lunch break daily but due to the demands of his job, Plaintiff was required to work through his lunch break for most days during his employment with Defendant – sometimes Plaintiff took a maximum break of about 15-20 minutes but was not compensated for the remaining break time worked.
15. At all times relevant herein, Plaintiff worked about 48-51 hours a week for Defendant and sometimes more; 7 days a week - Plaintiff's hours worked and wages paid will be refined after Defendant produces employment, time and wage records it was required to keep under the FLSA and NYLL.
16. Plaintiff incorporates herein, accurate records of his time, wages and employment that Defendant was required to keep pursuant to the FLSA and NYLL.
17. Upon information and belief, and at all times relevant herein, Defendant for its benefit and convenience, required Plaintiff to reside in one of its buildings located at 710 Gerald Avenue, Bronx, NY 10451, where Plaintiff worked so that Plaintiff would be available to tenants at all hours of the day and would be able to respond to the needs of tenants and the building more quickly than if he resided away from the building.
18. Upon information and belief, and at all times relevant herein, Defendant made deductions from the wages of Plaintiff Castro for the costs of the apartment Defendant required Plaintiff to reside in - however, the apartment unit or "apartment" Defendant provided Plaintiff to reside in was declared to be illegal and as a result Plaintiff had to vacate the apartment about two months prior to the end of his employment with Defendant.

19. At all times relevant herein, Defendant made deductions from Plaintiff's wages for the value of the apartment in which Plaintiff resided while working for Defendant. Defendant valued the apartment it required Plaintiff to reside in at \$1555 a month and it deducted/offset this amount from Plaintiff's wages.
20. Upon information and belief and at all times relevant herein, the apartment Plaintiff resided in did not comply with the applicable building and housing laws including those of New York City. As such, Defendant was not permitted to take a credit/offset/deduction for the value of the apartment it required Plaintiff to reside in.
21. At all times relevant herein, Defendant paid Plaintiff on a semi-monthly basis in violation of NYLL 191 (1)(a)(i).
22. At all times relevant herein, Defendant did not provide plaintiff with the notice(s) required by NYLL 195(1).
23. At all times relevant herein, Defendant not provide Plaintiff with the statement(s) required by NYLL 195(3) – the wage statements provided to Plaintiff did not state the hours worked by Plaintiff nor did it state his rates including his regular and overtime rates, among other deficiencies.
24. Upon information and belief and at all times relevant herein, Defendant had annual revenues and/or expenditures in excess of \$500, 000. Plaintiff references and incorporates herein, accurate copies of records of Defendant's business volume and revenues as well as business operations and commerce that Defendant was required to keep and maintain under the FLSA including under 29 CFR 516.
25. Upon information and belief and at all times relevant herein, Defendant conducted business with companies outside the state of New York.
26. Upon information and belief, and at all times relevant herein, Defendant and Plaintiff conducted business with insurance companies outside the state of New York.

27. Upon information and belief and at all times relevant herein, Defendant purchased essential equipment and supplies from vendors outside the state of New York.
28. At all times applicable herein, Defendant conducted business with vendors and other businesses outside the State of New York.
29. Defendant as a regular part of its business, makes payment of taxes and other monies to agencies and entities outside the State of New York.
30. At all times applicable herein and upon information and belief, Defendant and the tenants in its buildings conducted business with mortgage companies, banks, insurance companies, and internet/email service providers within and outside the State of New York.
31. Defendant as a regular part of its business, engaged in credit card transactions involving banks and other institutions outside the state of New York.
32. At all times applicable herein and upon information and belief, Defendant utilized the instrumentalities of interstate commerce such as the United States mail, electronic mail, the internet and telephone systems.
33. At all times relevant herein and for the time Plaintiff was employed by Defendant, Defendant failed and willfully failed to pay Plaintiff an overtime rate of one and one half times his regular rate of pay for each and all hours worked in excess of forty hours in a week for each week in which such overtime was worked.
34. Upon information and belief, and at all relevant times herein, Defendant failed to display federal and state minimum wage/overtime posters.
35. Upon information and belief, and at all relevant times herein, Defendant failed to notify Plaintiff of his federal and state minimum wage and overtime rights and failed to inform Plaintiff that he could seek enforcement of such rights through the government enforcement agencies.

36. “Plaintiff” as used in this complaint refers to the named Plaintiff.

37. The “present” or the “present time” as used in this complaint refers to the date this complaint was signed.

**AS AND FOR A FIRST CAUSE OF ACTION**  
**FAIR LABOR STANDARDS ACT - 29 U.S.C 201 et Seq.**

38. Plaintiff alleges and incorporates by reference the allegations in paragraphs 1 through 37 above as if set forth fully and at length herein.

39. At all times relevant to this action, Plaintiff was employed by Defendant within the meaning of the FLSA – 29 USC § 201 et Seq.

40. At all times relevant to this action, Plaintiff was engaged in commerce and/or in the production of goods for commerce and/or Defendant constituted an enterprise(s) engaged in commerce within the meaning of 29 U.S.C. § 207.

41. At all times relevant herein, Defendant transacted commerce and business in excess of \$500,000.00 annually or had revenues in excess of \$500,000.00 annually.

42. At all times relevant herein, Defendant failed and willfully failed to pay Plaintiff overtime compensation at rates not less than one and one-half times his regular rate of pay for each hour worked in excess of forty hours in a week, in violation of 29 U.S.C. § 207.

**Relief Demanded**

43. Due to Defendant’s FLSA overtime violations, Plaintiff is entitled to recover from Defendant, his unpaid overtime compensation, maximum liquidated damages, attorneys’ fees, and costs of the action, pursuant to 29 U.S.C. § 216(b).

**AS AND FOR A SECOND CAUSE OF ACTION**

**NYLL 650 et Seq. (Unpaid Overtime)**

44. Plaintiff alleges, and incorporates by reference the allegations in paragraphs 1 through 42 above as if set forth fully and at length herein.
45. At all times relevant to this action, Plaintiff was employed by Defendant within the meaning of the New York Labor Law, §§ 2 and 651 and the regulations and wage orders thereunder including 12 NYCRR § 142.
46. At all times relevant herein, Defendant failed and willfully failed to pay Plaintiff overtime compensation at rates not less than 1.5 times his regular rate of pay for each hour worked in excess of forty hours in a work-week, in violation of the New York Minimum Wage Act and its implementing regulations and wage orders. N.Y. Lab. Law §§ 650 et seq., including 12 NYCRR § 142-2.2.

**Relief Demanded**

47. Due to Defendant's New York Labor Law violations, Plaintiff is entitled to recover from Defendant, his unpaid overtime compensation, prejudgment interest, maximum liquidated damages, reasonable attorneys' fees, and costs of the action, pursuant to N.Y. Labor L. § 663(1).

**AS AND FOR A THIRD CAUSE OF ACTION**

**(NYLL § 190, 191, 193, 195 and 198)**

48. Plaintiff alleges, and incorporates each and every allegation contained in paragraphs 1 through 47 above with the same force and effect as if fully set forth at length herein.
49. At all times relevant to this action, Plaintiff was employed by Defendant within the meaning of the New York Labor law, §§ 190 et seq., including §§ 191, 193, 195 and 198.
50. At all times relevant herein, Plaintiff was employed by Defendant as a manual worker within the meaning of NYLL 191 (1)(a)(i) who should have been paid no later than weekly.

51. The deductions/credit/offset taken by Defendant for the value of the apartment it required Plaintiff to reside in, violated Article 6 of the NYLL including NYLL § 193.
52. Defendant violated and willfully violated NYLL §§ 190 et seq., including §§ 191, 193 and 198, by failing to pay Plaintiff all his unpaid overtime wages, (FLSA and NYMWA) and non-overtime wages, as required under NY Labor Law § 190 et seq.
53. At all times relevant herein, Defendant failed and willfully failed to provide Plaintiff with the notice(s) required by NYLL § 195(1) – Plaintiff is therefore entitled to and seeks to recover in this action the maximum recovery for this violation, plus attorneys’ fees and costs pursuant to NYLL § 198 including NYLL § 198(1-b), as well as an injunction directing Defendant to comply with NYLL § 195(1).
54. At all times relevant herein, Defendant failed and willfully failed to provide plaintiff with the statement(s) required by NYLL § 195(3) – Plaintiff is therefore entitled to and seeks to recover in this action the maximum recovery for this violation, plus attorneys’ fees and costs pursuant to NYLL § 198 including NYLL § 198(1-d), as well as an injunction directing Defendant to comply with NYLL § 195(1).

### **Relief Demanded**

55. Due to Defendant’s New York Labor Law Article 6 violations including violation of sections 191, 193 and 198, Plaintiff is entitled to recover from Defendant, his entire unpaid wages, including his unpaid overtime wages, (FLSA and NYMWA) and non-overtime wages, reimbursement for unlawful deductions including the cost of the apartment, maximum liquidated damages, including maximum liquidated damages on all wages paid later than weekly, prejudgment interest, maximum recovery for violations of NYLL § 195(1) and NYLL § 195(3), reasonable attorneys’ fees, and costs of the action, pursuant to N.Y. Labor Law § 190 et seq. including § 198.

### **PRAYER FOR RELIEF**

**WHEREFORE**, Plaintiff respectfully requests that this Court grant the following relief:



56. Declare Defendant (including its overtime and wage payment policy and practice), to be in violation of the rights of Plaintiff, under the FLSA and New York Labor Law – 12 NYCRR § 142, and Article 6 of the NYLL – NYLL § 190 et Seq.
57. As to the **First Cause of Action**, award Plaintiff his unpaid overtime wages due under the FLSA, together with maximum liquidated damages, costs and attorneys’ fees pursuant to 29 USC § 216(b);
58. As to the **Second Cause of Action**, award Plaintiff his unpaid overtime wages due under the New York Minimum Wage Act and the Regulations thereunder including 12 NYCRR §§ 142-2.2, together with maximum liquidated damages, prejudgment interest, costs and attorney's fees pursuant to NYLL § 663;
59. As to the **Third Cause of Action**, award Plaintiff any and all outstanding wages, including his entire unpaid wages, including his unpaid overtime wages, (FLSA and NYMWA) and non-overtime wages, reimbursement for unlawful deductions including the cost of the apartment, maximum liquidated damages, including maximum liquidated damages on all wages paid later than weekly, prejudgment interest, maximum recovery for violations of NYLL § 195(1) and NYLL § 195(3), reasonable attorneys’ fees, and costs of the action, pursuant to N.Y. Labor Law § 190 et seq. including § 198.
60. Award Plaintiff, any relief requested or stated in the preceding paragraphs but which has not been requested in the WHEREFORE clause or “PRAYER FOR RELIEF”, in addition to the relief requested in the wherefore clause/prayer for relief;
61. Award Plaintiff such other, further and different relief as the Court deems just and proper.

**Dated: Queens Village, New York**  
**June 20, 2017**

Respectfully submitted,

Abdul Hassan Law Group, PLLC

/s/ Abdul Hassan

By: Abdul K. Hassan, Esq. (AH6510)

*Counsel for Plaintiff*

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